G. R. S. IX-5]

Previous references.

1898-99
~~191~~
(G. 7.)

File No. G 98

Serial Nos. 1—10

Later references.

P. 52
BK

✓

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—10

Major ~~Part~~ B for November 1899.

SUBJECT.

Procedure for the ~~Payment~~ Settlement of Savings Bank ~~Dep~~ Deposit claims.

Indexed
Cabbalized

W D 88—GPB—50,000—24-7-16

SECRETARY'S OFFICE.

REVENUE BRANCH.

OFFICE NOTE.

SUBJECT.

Regarding the action of the Treasury officer Tumkur Dt in having paid to Mr D. Venkatramaiya, Advocate, a sum of Rs 1000, out of Rs 1731-5-6 deposited in the Tumkur Dt. Savings Bank, by his father Venkatramiah (since deceased), and in having transferred the account to Mr D. Venkatramaiya's name, without proper authority.

LAST REFERENCE

Letter No. 14/20 dated 1st July 1897,

from the Comptroller, N.C.

~~The~~ D. Venkatramaiya

A Pensioned Amildar died in August 1898 leaving in the Tumkur District Savings Bank a balance of Rs 1731-5 at his credit. His eldest son Mr D Venkatramiah Advocate produced a deed of release from his brothers &c. before the Treasury officer & withdrew in September 1898 a sum of Rs 1000-0-0 from his deceased father's account. In October 1898

Vide Comptroller's letter No 6061/1151 dt 30th March 1899.

1898, the Dy. Comr., Treasury Department submitted to the Comptroller the journal of withdrawal containing the above payment, with a copy of the deed of release. At about the same time the Dy. Comr. Try. Deptt. intimated to the Comptroller the death of the depositor and submitted a fresh Index card obtained from Mr. D. Venkatramaiya for "reference & needful correction" i.e. for the transfer of the account to Mr. Venkatramaiya's name. The Comptroller observes that pending the correction being made the Treasury Officer appears to have effected the transfer in his books and substituted the Sons name in the Savings Bank Pass Book. The Comptroller considering the procedure adopted by the Treasury officer be reasonable informed the

× Vide his letter of the 30th March above referred to.

3

the Dy. Comrs & Treasury Deptt that the balance at credit of the deceased depositor having been in excess of Rs 1000/ no withdrawal from the account should have been permitted until the necessary heirship certificate was produced & that there was no provision in the Law & Bankers Act to accept the deed of release as sufficient authority for the withdrawal and for the transfer of the account & that the transfer could not be made till the necessary certificate was produced

2. The Comptroller reported the above facts to Govt & further stated that on the 24 March 1899, he received an application from Mr D. Venkatramaya stating that on his applica-

Vide his letter of the 20th March above referred to.

collection of debts due
to deceased etc.) is not pro-
duced to the Treasury
Officer of such Bank
within 3 months of the
date of the death of the
depositor the Treasury
Officer of such Bank
may pay the said sum
of money to any person
appearing to him to be
entitled to receive it
or to administer the
estate of the deceased.
It will be seen that in
these Cases the Treasury
Officer has been given
discretionary power to
pay or not and that
too after waiting for
three months to see if
any probate etc. is produced
But when the balance
left exceeds Rs 1000/-
no such power is given
either to the Treasury
Officer or to the Comptroller
No doubt payments
of higher balances with
out the production of

of probate of will, Let
of administration and Sea
has not been destroy
prohibited by the Ac
but to my mind the
reference is clear?

The Treasury
Officer, acting in haste
paid Rs 10-0-0 to Mr
D. Venkatramiah &
transferred the account
to his name, not
therefore covered by
any rules. But having
transferred the acco
it is open to doubt if
either the Treasury
Officer or the Comptro
can now refuse to
allow the balance bei
drawn by Mr D Venkata
ramanah who holds a
Pass Book for the
account in his own
name? I have there
fore the honor to reques
that you will be so
good as to place the
matter

quested that a legal opinion may be obtained and communicated to him as to whether under the Savings Bank Act in the circumstances stated payment of deposit could be effected as he had in this case or whether the case of a son + sons of a Hindu deceased depositor an exception could be made and payment ordered in the absence of Probate of will &c. In this connection he invites attention to Rule 36 of Post office Savings Bank Rules

3. Thereupon the Govt Advocate was requested to favor Govt

+ Please see page 1206 of the Postal Guide (copy put up), where the rule is printed.

atters before Govt
obtain their orders
Communicate the same
& your early Convenience.

The Comptroller also
requested that legal opi-
nion may be obtained
and communicated to
him as to whether under
the Savings Bank Act
as it now ~~stood~~ stands prohibition
of payment could be
inferred as he he had
one in this case or whether
the case of a son
or sons of a Hindu
deceased depositor,
an exception could
be made and payment
ordered in the absence
of Probate of will &c.
In this connection he in-
vites attention to Rule
36 of Post office Savings
Bank Rules.

3. Thereupon the
Govt Advocate was
requested to favor
Govt

Please see page 1206 of the Postal Guide (copy put up), where the rule is printed.

Govt with his opinion on
the question of law raised
by the Comptroller. The
Govt Advocate request
that a copy of the deed
of release above referred
to & of the order passed
by the Treasury officer
transferring the account
to Mr Venkatramiah
might be forwarded to
him, to enable him
to express an opinion
on the subject. The
Comptroller has now
submitted a copy of the
deed of release & states
that it is reported
by the Dy Comr Treasury
Depty. that no written
order was passed by
him while transferring
the accn it to Mr
D Venkatramiah

4. The Dy Comr of
Tumkur was
requested to report on
what

what authority the payment was made to Mr Venkatramiah & transfer of the account to his name was effected. He was further requested to report whether he was satisfied as to Mr Venkatramiah being solely entitled to the money & whether he (Mr Venkatramiah) is prepared to execute an indemnity bond. But nothing has been received from the Dy Comr till no

10

5 The release bond executed on a 5 Rs Stamp paper in favour of Mr D. Venkatramiah by his brothers Thekkar Venkatkrishnaya & Venkatagiriraya, minor & represented by by his guardian Gowramma & 2 sons of thei elder brother Shamanna viz Venkatachellaiah & Venkat

Enclosure to letter No 14/20 dt 1/7/99 from the Comptroller

11

Venkatanarasappa Affr
receiving the manner
in which Mrs Venkatramma
should dispose of the
family property, the
bond proceeds as follows:
"In consideration of
your not charging the
immoveable property
of Venkatachellah &
Venkatnarasappa
with the amount spent
on account of the funeral
of late Venkatramanah) &
certain other mom-
above referred to, we
(the executors of the bond) have
hereby relinquished all
our claim to the amount
deposited in the name
of Venkatramanamma
in the Tumkur Dt Govt
Savings Bank & also to
the amount of the house
due for one month &
3 days to the balance
remaining uncollected
on the account Star

ing in his (Venkatramaniah's) name & to the amount due to him on bonds you will be solely entitled to any profit accruing therefrom and also liable for any loss"

Submitted for orders with draft to Govt Advocate & a reminder to the Dy. Comr of Tumkur

Draft passed for issue
VC
15/7/99

(6) In his letter d 5/8/99, the Govt Advocate has given it as his opinion that a certificate of heirship is necessary before payment when the amount exceeds Rs 1000

In the present case the major portion of the amount had been paid to the V. Venkatramaniah on a deed of release & as a fresh account has been opened in his name, the amount may be paid to him without any certificate

13

vv Security

(4) In his letter of 17/11/22, the Dy Comr Tumkur & Tahsildar that the payment of Rs 1000 & Mr D Venkataramaiah Gowda Jeshpatla as there was a deed of release executed by the other heirs, that the transfer of the balance Rs 731-5-6 in Mr D V's name was however erroneous, that Mr D V is willing to execute an indemnity bond in any form the Govt may consider fit and that a clear rule may be laid down for future guidance. In cases where the amount exceeds Rs 1000

Hy 23/11/29

14

To

The direction in question is expressly limited to the amount not exceeding Rs 1000. In the case of larger deposits a declaration of his-
-chief cannot be dispensed with. In the present case however it is too late to rectify the mistake made by the Treasury. Nor can the Venkata-
-ramiah be prevented from obtaining upon the account drawn thereon by him.
The only relief produced by him
seems entirely
the further withdrawal
need be called for.

Please pay
under as aforesaid
and Mount -
23-11-29

Dr HC
Hy 23/11/29

Received 23.11.29

6163
3. 99
H. 1215

Q. DEPARTMENT

Section

File No. Q. 198

S l No.

The Comptroller, Mysore Govt.

To

The Secretary to the Govt. of Mysore,

Dept.

Dated

Despatched 5/4

Received

No. 6067

No. 1157

SUBJECT MATTER.

Reporting for orders of Govt that one D Venkatramanayya a Pensioner Amildar died on August last leaving in the Tumkur Dt. Savings Bank a balance of Rs. 1731-5-6

H.M. Under Secy Com. of Finance on what authority payment was made to Mr. Venkatramanayya and transfer of the account to his name was effected Also enquire whether he is satisfied as to Mr. Venkatramanayya being solely entitled to the money And whether he V is prepared to execute an Indemnity bond

Consult Govt Advocate on the question of law raised by the Comptroller

14-4-99

2

15/4

2 Drafts Briefs with the several remarks Rules pertaining thereto with this is detached for put up with Fs 1539/1898-99.

I do not think that Government can be advised to take any action in the matter. The Comptroller has no doubt acted in accordance with the rules in the matter of the payment of the deposit. The question whether the deceased Amildar's son is entitled to the money is one which the Comptroller is not concerned with. The Comptroller has only to see that the money is paid to the person who is entitled to receive it under the rules. The question of the right of the son to the money is one which he must settle with the son himself. I do not think that Government can be advised to take any action in the matter.

Submitted to Secretary for orders

16/4/99

From
b.u.q.q

6061
S/A. 1151

Special and DEPARTMENT.

OFFICE OF THE COMPTROLLER, MYSORE GOVT.

Bangalore, 30th March 1899

5-4

From

E R. SUBRAYER, Esq.,

Comptroller Mysore Govt.

To

The Secretary to the Govt. of Mysore,

General & Revl Dept.

Sir,

I have the honor to report for the orders of Govt that one D. Venkatramiah a pensioned amildar died in August last leaving in the Tumkur District Savings Banks a balance of Rs 1731-5-6 at his credit. His eldest Son Mr D Venkatramayya, advocate obtained a deed of release from his brothers etc and after producing the same before the Treasury officer withdrew in September 98 a Sum of Rs 1000/- from his deceased father's account. The journal of withdrawal containing the above payment, with a copy of the deed of release, was received in my office in October last About the same time I received a docket from the Dy Commissioner Treasury dept. (No 230 d/6-10-98) intimating the death of the depositor and enclosing a fresh Index

Index card obtained from Mr D Venkatramayya for Reference and needful correction for the transfer of the account to Mr Venkatramayya's na and pending the correction being made the Treasury officer appears to have effected the transfer in his books and substituted the Son's name in the Savings Bank Pass Book.

2. As I considered the procedure adopted by the Treasury officer objectionable, I informed the Dy Commissioner Treasury dept. that the balance at credit of the deceased depositor having been in excess of Rs 1000/- no withdrawal from the account should have been permitted until the necessary heirship certificate was produced. I also stated that there was no provision in the Savings Bank act to accept the deed of release as sufficient authority for the withdrawal and for the transfer of the account and that the transfer cannot therefore be made till the necessary certificate is produced

Vide page 28 of the Rules post

3. On the 24th Instant I received an application from Mr D Venkatramayya stating that on his application to the Treasury officer Tumkur that office, acting under the orders of the Dy Commissioner, paid him Rs 1000 on being satisfied, after reference to the deed of release, as to his right to withdraw the balance, and that nearly a month after the payment of the said Rs 1000, he transferred the account itself-

ctedly to his (applicant's) name. but when applied a second time for withdrawal the Treasury officer refused to permit him to withdraw the amount unless a certificate of heirship was produced He also states in his application that the Savings Bank Act does not render the production of heirship certificate obligatory nor does it prohibit the payment of deposits of deceased persons to their Sons and that so far as he is aware no Rules have been published by the Mysore Govt beyond those found in the Savings Bank Pass Books. In conclusion he begs that his right being undisputed in the opinion of the Dy Commissioner and the Treasury officer he may be allowed to withdraw the balance standing in his own name.

4. Section 4 of the Savings Bank Act V of 1873, as attached to the Savings Bank Rules published in Govt Notification No 161 of 14-12-87, provides that if a depositor dies leaving in a Govt Savings Bank a sum of money not exceeding Rs 1000 and if probate of his will, or letters of administration of estate, or a certificate granted under act XXVII of 1860 (an act for facilitating the collection of debts on successorship etc) is not produced to the Treasury officer of such bank within three months of the date of the death of the depositor, the Treasury officer of such Bank may pay the said sum of money to any

any person appearing to him to be entitled to receive it or to administer the estate of the deceased. It will be seen that in these cases the Treasury officer has been given discretionary power to pay or not and that too after waiting for three months to see if any probate etc is produced. But when the balance left exceeds Rs 1000/- no such power is given either to the Treasury officer or to the Comptroller. No doubt payment of higher balances without the production of Probate of will, Letters of administration etc has not been distinctly prohibited by the act: but to my mind the inference is clear.

5. The Treasury officer's action in having paid Rs 1000 to Mr D Venkatramayya and transferred the account to his name is not therefore covered by any rules. But having transferred the account it is open to doubt if either the Treasury officer or the Comptroller can now refuse to allow the balance being drawn by Mr D Venkatramanya who holds a pass book for the amount in his own name? I have therefore the honor to request that you will be so good as to place the matter before Govt and obtain their orders and communicate the same at your early convenience.

I beg also that legal opinion may be obtained and communicated to me wheth

whether under the Savings Bank Act as it now stands prohibition of payment can be registered as I have done in this Case or whether in the Case of a Son or Sons of a Hindu deceased depositor I can make an exception and order payments in the absence of Probate of will. Letters of Administration or a certificate granted under Act XXVII of 1860. In this connection I beg to invite your attention to Rule 36 of Post office Savings Bank Rules.

x Vide page 26 of the Indian Act

I have the honor to be,
Sir,
Your most obedient Servant
E Nonbrop
Comptroller

28

7 Draft as per orders

2 drafts

(2)

Section —

File No. 9

Serial No. 10

The Dy Comr
Tumkur Dt

Dated 18/4/99
(18)

No 7425 /99
" 7868

In forwarding herewith copy of letter No 6061/115-1 dated 5th April 1899, from the Comptroller Mysore Gl soliciting orders as regards the action of the Treasury officer, Tumkur Dt, in having paid to Mr D. Venkataramiah, Son of D. Venkataramiah, pensioned Amildar, (who had died) leaving a deposit of Rs 1731-5-6 in the Tumkur Dt Savings Bank, the sum of Rs 1000 out of the said deposit & transferred the account as regards the balance to the name has the honour to enquire on what authority payment was made to Mr Venkataramiah and

transfer of the account to his name was effected. 8

The Dy. Comr is further requested to report whether he is satisfied as to Mrs Venkataramiah being solely entitled to the money and whether he (Mr Venkatramiah) is prepared to execute an indemnity bond.

By order

15/11/99

For Secretary

9 Draft. as per order

2 drafts

(3)

To.

Section

File No

Serial No

The Govt Advocate

Dated 18/4/99 2 Drafts

No 7426 en one
" 7d 869

In forwarding herewith copy of letter No 6061/115-1 dated 5th April 1899, from the Comptroller Mysore Govt regarding the action of the Treasury Officer Tumkur Dt in dealing with the Savings Bank deposit account in the name of D. Venkatramanah & Pensioned Amildar who had died leaving a deposit of Rs 1731-5-6 in the Tumkur Dt Savings Bank I have the honor to request that the Govt Advocate will be so good as to move the Govt with

his opinion on the question of law raised by the Comptroller in the last para of ~~the~~ the letter ~~here~~ referred to above

10

Subs
Added subject
sept

By order

M
S/ Fulger
For Secretary

2744/5

11

7481

189 K 1327

From

The Govt: Advocate
in Mysore

(4)

To

Section

File No. 9

Serial No.

THE SECRETARY TO THE
GOVT. OF MYSORE,
REVENUE AND GENERAL DEPTS.

Dated 27/5/99

Despatched

Received

General No. 170
No.

Enclosure No.

Requesting that certain informations or papers may be sent to him to enable him to express the opinion called for with reference to this Office Letter No. 7426/K869 of 18/4/99.

References to be marked.

Refer: postal
No. 11699.

Send
31/5/99

Draft end 2
3/6/99

12

OFFICE OF THE
GOVERNMENT ADVOCATE IN MYSORE.

DATED 27th May 1899

No. 170
En. No.

From

THE GOVERNMENT ADVOCATE
IN MYSORE.

To

THE SECRETARY TO THE GOVERNMENT OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

Sir,

With reference to your letter No. 7426 dated 10th April 1899, I have the honour to state that I require a copy of the release deed mentioned in the letter of the Comptroller as also a copy of the order passed by the Treasury officer transferring the account to Mr Venkatramiah to enable me to express an opinion on the subject and I therefore request that the same may be obtained and sent to me.

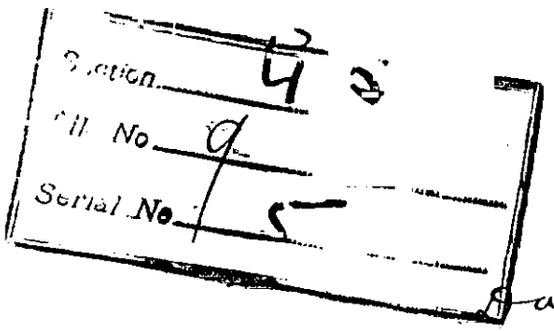
I have the honor to be
Sir;
your most obedient servant

S Ramaswamy
Government advocate

13 Draft for approval

(5)

To.



The Comptr., Mysore

Dated. 5/6/99

No 8911

Fl. 88

Comptrollers letter no 606/1157 dated 30th March 1899 in re the action of the Treasury officer Tumkur dictt, in having paid to Mr. D. Venkatramaiya Advocate, a Sum of Rs. 1000, out Rs. 1731-5-6 deposited in the Tumkur district Savings Bank by his father Venkatramaya (since deceased) a Pensioned ~~Amildar~~, and in having transferred the account to Mr. D. Venkatramaiyas name without proper authority.

With reference to the above has the honor to request that the copy of the deed of release received in the Comp office as well as a copy of the order passed by the

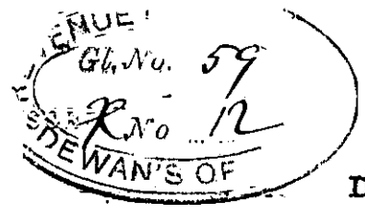
Treasury officer transferring the account to Mr. D. Venkat Ramaiyas name may be forwarded to this office for transmission to the Govt. Advocate, whose opinion has been called for in the matter. 14

By Order

3/6/92

For Secretary

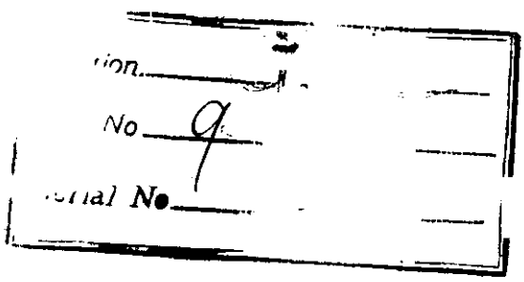
US



(6)

DEPARTMENT

189



From

The Comptroller, Mysore Govt.

To

The Secretary to the Govt. of Mysore

Dept.

Dated 1/7/99

Despatched

Received

No. 14
No. 20 Enc ✓

SUBJECT MATTER.

Forwarding copy of the deed of release executed in favour of Mr. D. Venkatramiah Advocate by his brothers

1/7/99

Submd
Referring Note
Hr
10/7/99.

Note submitted.
8/7/99.

6

Vo 14 Sr 1
20

Special Branch DEPARTMENT.

OFFICE OF THE COMPTROLLER, MYSORE GOVT.

Bangalore, 1st July 1899

From

E R. SUBRAYER, Esq.,

Comptroller, Mysore Govt.

To

The Secretary to the Govt. of Mysore,

General and Revenue Dept

Sir.

As desired in your docket No 8911 / F.2.1092 dated 5th June 1899, I have the honour to forward herewith copy of the deed of release executed in favour of Mrs D. Venkatapamah Advocate by her brothers &c and to state that the Deputy Commissioner's Treasury Department reports that no pecuniary order was passed by him, while transferring the account to Mrs D. Venkatapamah name.

I have the honour to be

Sir

Your most obedient Servant

E Subrayer

Comptroller

Enl.

[illegible] 17

[illegible]

[illegible] 1898 [illegible]

[illegible]

[illegible] 3 [illegible]

[illegible] 16 [illegible]

[illegible] 200 [illegible]

[illegible]

[illegible] 1100 [illegible]

[illegible] 1500 [illegible]

[illegible]

"Copy"

[illegible signature]

Comptroller

[illegible]

19 Draft for appl

2 drafts

(7)

To

The Govt Advocate
in Mysore

Section
File No 9
Serial No

Dated 18/7/99.

No 5-10 A. Enclosure
H. 601

His letter no 170 dated
27th May 1899

As requested in the above, I have the honor to forward herewith a copy of the deed release executed favor of Mr D. V. Ramiah, by his brother and to state, that the Comptroller reports that no written order was passed by the Treasury officer of Tumkur while transferring the account to Mr D. Venkatramiah

By order

Recd 18/7/99

For Secretary

90

REVENUE DEPARTMENT 876 200 1899

(18)

From

The Govt. Advocate
in Mysore

Section.....
File No 9
Serial No.....

To

THE SECRETARY TO THE
GOVT. OF MYSORE,
REVENUE AND GENERAL DEPTS.

Dated 5/8/99

Despatched

Received

General No. 27
No.

Enclosure No.

Forwarding opinion in the matter of payment to Sir Venkatramanah, of a certain amount without any certificate or security as the Deposit is in his name &c

References to be marked.

~~Library~~

~~Above for perusal of the Judicial Secy~~
~~Reports required & returned~~

Sub. with refs.

MSL
14/8/99.

R.O. 92

21

OFFICE OF THE
GOVERNMENT ADVOCATE IN MYSORE.

DATED 5th August 1899.

No. 27
En. No.

From

THE GOVERNMENT ADVOCATE
IN MYSORE.

To

THE SECRETARY TO THE GOVERNMENT OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

Sir,

In continuation of this Office Letter No 170, dated the 27th May 1899 I have the honor to state that under Section 2 of Certificate of Heirship Act Certificate is necessary for the collection of debts due to the estate of a deceased person. The rulings of the High Courts under Act XXVII of 1860 lay down the dictum that no Court will compel any debtor of a deceased Hindu or Mohamedan to pay his debts to any person unless such person shall either have obtained a Certificate under the

the debt, or probate of the deceased's will
or administration to the estate
The only exceptions to this rule are
cases where there is no reasonable doubt
as to the person entitled to receive
the money, but also where the debtor
withholds the debt by fraudulent
or vexatious motives. The mere non
payment of the debt when it has
never been asked for cannot be said
to be a debt vexatiously withheld
within the meaning of the Section
of the Act. (Vide I.L.R. Reports VI Calcutta
page 370 and IX Calcutta page 309.).

It was held in VII Madras, page 115
that if the debtor refused to pay neither
from fraudulent nor vexatious motive
but to avoid the risk of having to pay

the

the debt-lives over, the sum without the Certificate of heirship must be dispensed.

Sections 4, 6, 7 & 8 of the Government Savings Bank Act V of 1873 refer to deposits of a deceased person not exceeding ~~two~~ Rs and empower the Treasury Officers to make payment of any deposit not exceeding 1000 Rs with or without the Certificate of heirship at their discretion and empowering them to take security if necessary The provisions made is in pursuance of the rulings above quoted with the additional power given to them to take security, Similar to provision in the Certificate of heirship Act. empowering the Courts to take security if necessary before the grant of Certificate of heirship

Under the rulings above quoted amounts deposited could be

be paid at the discretion of Treasury Officers without a special enactment But to avoid a Conflict of rulings on the point and to secure a uniform mode of payment under the provisions of an enactment; No Govt Savings Banks act must have been passed and as an express provision is made for the payments of deposits not exceeding Rs 1000, the same person cannot in law apply for payment of amount of deposits exceeding 1000 Rs I am therefore of opinion that a Certificate of heirship is necessary before payment when the amount exceeds 1000 Rs

In the Case under reference as the major portion of the amount has been paid to Mr Venkatramma on the production of a deed of release and as a fresh account was opened in his name, I am

of

of Spencer Lane the amount may be paid to him without any Certificate or Seen, as the deposit is in his name

I have the honor to be
Sir
Your most obedient Servant.

S Rawlinson
Government Advocate

Gen. 31.]

PARTMENT
3255
1899 R. 1727
S OFFICE

(18)

upd to Secretary with
Mee note, Cust
Hy 23/11/99

Section 2
File No C
Serial No

From
The Dy Commissioner
Dumka Dt.

To The Secretary, to the
Govt of Bengal
Rev. & Jud: Dept.

Dated 14 November 1899
Despatched 17 Camp Kumrai
Received

General No.
No. 438

Enclosure No. 2

Stating that a clear
rule may be laid
down in respect of
the payment of deposits
in the names of
deceased persons
amounting to upwards
of Rs 1000/-

2

20.11.99

File pubp
22/11

No: 438
Ans 2

Tumkur District
Deputy Comm's Office
Camp Kunigal 14 November 1899

To

The Secretary to the Government
of Mysore
Revenue & General Departments

Sir

In reply to your docket
No: 7425 dated the 18 April 1899
7868
I have the honor to state that in
the absence of an express provision
in the Government Savings Banks
Act V of 1873 or in the rules framed
thereunder, prohibiting the payment
to legal heirs of deposits of upwards
of Rs 1000/ belonging to deceased
persons, except upon the production
of a Probate of will or Letter of
administration or certificate granted
under act XXVII of 1860, a sum of
Rs 1000/ was paid to Advocate M^r
D. Venkatramiya BA out of the
balance of Rs 1731-5-6 which stood
in the name of his deceased
father Mr D. Venkatramanayya
as he was considered entitled
to

to receive it. M. D. Venkatramanayya claim to receive the said money was ~~also~~ supported by a duly Stamped Deed of Release executed by his brother and nephews having a lien on the estate of the deceased depositor renouncing their claims on the Bank deposit in question in his favor (Vide Copy enclosed for reference)

2. The account for the balance remaining in the Bank, after payment of the Sum of Rs 1000/ above mentioned was erroneously transferred in the name of M. D. Venkatramanayya. The proper course to adopt was to close the deceased depositors account by payment of the whole of the balance at his credit to his legal heir and to open a fresh account in the name of the latter on his application.

A Copy of the drawing Officers letter no 268 of the 28th April 1899 and of its enclosure is herewith forwarded for perusal

3 A fresh account having been opened and a Pass Book having been issued to M. D. Venkatramanayya in respect of the balance of money which remained in the Bank to

his deceased fathers credit the Treasury Officer cannot I think, now refuse to permit him to operate on that account

4 The terms of the Release referred to in para 1 are clear and I am satisfied that under it, Mr. D. Venkatramanayya is solely entitled to the money in question He has expressed his willingness to execute an Indemnity Bond in respect thereof in any form that may be prescribed by Government

5. In this connection I beg that a clear rule may be laid down for future guidance in respect of the payment of deposits in the names of deceased persons amounting to upwards of Rs 1000/, as section 4 of act V of 1873 is applicable only to deposits not exceeding that sum

I have the honor to be

Sir,

Your most obedient servant

M Narasimha Rao

Dy Commissioner

Guntur Dt

Rao

250 1898-99

From The Treasury Officer
Tumkur District.

To The Deputy Commissioner
Tumkur District.

Dated 28 April 1899. No: 268.

His Memo No: 1102 of 21st April 1899, forwarding for explanation Chief Secretary's docket No. 7425/868 of 18 and requesting to quote the authority under which the account was transferred in the name of M. Venkatramaiah Advocate.

In resubmitting the enclosures received with the above, I have the honor to state that payment of Rupees 1000/- was made on the 12th September 1898 to M. Venkatramaiah, the eldest son and legal heir of the deceased defendant Venkatramaiah, Pensioned Amildar, on the authority of the Deed of Release claimed and produced by the Advocate from his brothers &c. The period of three months and the maximum Amount fixed in Section 4 of the Savings Bank Act of 1873 were also taken into consideration, but as the claimant produced a Deed of Release to prove that his brothers &c. have had no objection to his transacting business the claim was considered undisputed

payment authority

2 As regards transferring the Deposit
item in the name of Venkatramaiah, Advocate,
copy to state that no part payment was ordered
to him, the name in the Ledger and Pass Book
was corrected and the fact of the change
in the name intimated to the Comptroller
in this office docket no. 230 of 6th October
898 so without such changed data, the
undersigned may not have any read
reference for admitting the future claims
of the very person. A Copy of remarks
made in the Comptroller's office on the
Savings Bank Paid Journal for June
898 is herein enclosed for reference.

Signed S.N. Meer Kamaluddin Ali Khan
Treasury officer.

Copy

Venkatramaiya
for Deputy Commissioner

CS

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Remarks made in the Comptroller's office on the Savings Bank Pass Journal of Tumkur District for June 1898.

Before part payment was made to the wife of the deceased, enquiries of a new index card, have been sent in with the name of the wife of the deceased substituted.

Copy

Signed Meerhamadeen Ali Khan
Treasury officer.

Copy

Vinkatanarayya

for Deputy Commissioner

CP

33 Draft order

Read the following papers

(1) Letter No. 6061/1151 dated 30th March 1899 from the Comptr. Mysore Govt. in the matter of the payment to Mr. D. Venkatramanayya, Advocate, of Rs. 1000 out of the deposit of Rs. 1731-5-6 at the credit of his deceased father Venkatramanayya in the Savings Bank of the Tumkur District Treasury, and the transfer of the account to Mr. D. Venkatramanayas name.

(2) Letter No. 27 & 5th August 1899 from the Govt. Advocate in Mysore (In extenso)

(3) ~~Correspondence ending with~~ Letter No. 438 & 30th 14th Novr. 1899 from the Dy Commr. Tumkur District (In extenso)

Order thereon

One D. Venkatramanayya, a Pensioned Amildar, died in August 189 leaving a balance of

Fc 1215

1 (In extenso)

Serial No. 1 C

x Fc. 200

N 3986-94 & 29/11/99

Of 7-16-99.

After scanning this, please write the file back to to prepare press copy.

deposit amounting to
Rs. 1731-5-6 at his credit
in the Savings Bank
of Tumkur District Treasury
In September 1898, his
eldest son Mr. D. Venkat-
ramanya produced before
the Treasury officer a
deed of release obtained
from his brothers and
withdrew Rs. 1000 from the
said deposit, and also
subsequently got the account
transferred to his own name.
The Comptr. having taken
objection to the procedure
adopted by the Treasury
officer on the ground that
without the production
of an heirship certificate,
no withdrawal should
have been permitted from
a deposit exceeding Rs. 1000
at the credit of a deceased
person, the latter declined
to allow Mr. D. Venkataramanya
to withdraw the balance
without an heirship
certificate, although the
account had been transferred

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to his name. The Comptr. Solicits the orders of Govt as to whether under Section 4 of the Savings Bank Act V of 1873 the Treasury officer was right in having permitted the withdrawal of the amount without the production of a certificate of heirship when the deposit exceeded Rs. 1000/-, & whether the account having been transferred x further withdrawal can be objected to.

2. The Govt Advocate, who was consulted in the matter is of opinion that a certificate of heirship is necessary before payment when the amount exceeds Rs. 1000/- but that, as in the present case the major portion of the amount has been paid to Mr Venkataramanya on a deed of release and as a fresh account has been opened in his name the

amount may be paid to him without any certificate, or Security. The Dy Comptr States that the payment of Rs. 1000 to Mr. D. Venkatramayya was justifiable as there was a deed of release executed by the other heirs that the transfer of the account to his name was however erroneous + that he is willing to execute an indemnity bond in any form the Govt may Consider fit. 3 The Govt observe that the discretion allowed to the Treasury officers in Section 4 of the Savings Bank Act V of 1873 is expressly limited to deposits not exceeding Rs. 1000/ In the case of Larger deposits a certificate of heirship Cannot be dispensed with In the present case, however it is too late now to rectify the mistake made by the Treasury. Nor Can Mr. Venkatramaiya be

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prevented from operating upon the account transferred to his name. The deed of release produced by him seems sufficient and no further indemnity need be called for

Spirit

For Secretary

28.11.99

To

The Comptr., Mysore Govt.

By Commr., Southern Division

By Commrs. of other Divisions.

READ THE FOLLOWING PAPERS—

(1) Letter No. 6061—1151, dated 30th March 1899, from the Comptroller, Mysore Government.

I have the honor to report for the orders of Government that one D. Venkatramaniah, a pensioned Amildar, died in August last, leaving in the Tumkur District Savings Bank a balance of Rs. 1,731-5-6 at his credit. His eldest son Mr. D. Venkatramaiya, Advocate, obtained a deed of release from his brothers, &c., and after producing the same before the Treasury Officer, withdrew, in September 1898, a sum of Rs. 1,000, from his deceased father's account. The journal of withdrawal containing the above payment, with a copy of the deed of release, was received in my office in October last. About the same time, I received a docket from the Deputy Commissioner, Treasury Department, (No. 230, dated 6th October 1898) intimating the death of the depositor and enclosing a fresh Index Card obtained from Mr. D. Venkatramaiya for "Reference and needful correction," *i. e.*, for the transfer of the account to Mr. Venkatramaiya's name, and pending the "Correction" being made, the Treasury Officer appears to have effected the transfer in his books and substituted the son's name in the Savings Bank Pass Book.

2. As I considered the procedure adopted by the Treasury Officer objectionable, I informed the Deputy Commissioner, Treasury Department, that the balance at credit of the deceased depositor having been in excess of Rs. 1,000, no withdrawal from the account should have been permitted until the necessary heirship certificate was produced. I also stated that there was no provision in the Savings Bank Act to accept the deed of release as sufficient authority for the withdrawal and for the transfer of the account, and that the transfer cannot therefore be made till the necessary certificate is produced.

3. On the 24th instant, I received an application from Mr. D. Venkatramaiya stating that on his application to the Treasury Officer, Tumkur, that Officer acting under the orders of the Deputy Commissioner, paid him Rs. 1,000, on being satisfied, after reference to the deed of release, as to his right to withdraw the balance and that nearly a month after the payment of the said Rs. 1,000, he transferred the account itself to his (applicant's) name; but when he applied a second time for withdrawal, the Treasury Officer refused to permit him to withdraw the amount unless a certificate of heirship was produced. He also states in his application that the Savings Bank Act does not render the production of heirship certificate obligatory nor does it prohibit the payment of deposits of deceased persons to their sons; and that, so far as he is aware, no rules have been published by the Mysore Government beyond those found in the Savings Bank Pass Books. In conclusion, he begs that, his right being undisputed in the opinion of the Deputy Commissioner and the Treasury Officer, he may be allowed to withdraw the balance standing in his own name.

4. Section 4 of the Savings Bank Act V of 1873, attached to the Savings Bank Rules, published in Government Notification No. 161 of 14th February 1887, provides that if a depositor dies leaving in a Government Savings Bank a sum of money not exceeding Rs. 1,000, and if probate of his will, or letters of administration of his estate, or a certificate granted under Act XXVII of 1860, (an act for facilitating the collection of debts on succession, &c.,) is not produced to the Treasury Officer of such Bank within three months of the date of the death of the depositor, the Treasury Officer of such Bank may pay the said sum of money to any person appearing to him to be entitled to receive it or to administer the estate of the deceased. It will be seen that in these cases the Treasury Officer has been given discretionary power to pay or not, and, that too, after waiting for three months to see if any probate, &c., is produced. But when the balance left exceeds Rs. 1,000, no such power is given either to the Treasury Officer or to the Comptroller. No doubt, payment on higher balances without the production of probate of will, letters of administration, &c., has not been distinctly prohibited by the Act; but to my mind, the inference is quite clear.

5. The Treasury Officer's action, in having paid Rs. 1,000 to Mr. D. Venkatramaiya and transferred the account to his name, is not therefore covered by any rules. But having transferred the account, it is open to doubt if either the Treasury Officer or the Comptroller can now refuse to allow the balance being drawn by Mr. D. Venkatramaiya who holds a Pass Book for the amount in his own name. I have, therefore, the honor to request that you will be so good as to place the matter before Government and obtain their orders and communicate the same at your early convenience.

I beg also that legal opinion may be obtained and communicated to me whether under the Savings Bank Act, as it now stands, prohibition of payment can be inferred, as I have done in this case, or, whether in the case of a son or sons of a Hindu deceased depositor, I can make an exception and order payments in the absence of probate of will, letters of administration, or a certificate granted under Act XXVII of 1860. In this connection, I beg to invite your attention to Rule 36 of the Post Office Savings Bank Rules.

(2) Letter No. 27, dated 5th August 1899, from the Government Advocate in Mysore.

In continuation of this office letter No. 170, dated the 27th May 1899, I have the honor to state that under Section 2 of Certificate of Heirship Act, a certificate is necessary for the collection of debts due to the estate of a deceased person. The rulings of the High Courts under Act XXVII of 1860, lay down the dictum that no Court will compel any debtor of a deceased Hindu or Mahomedan to pay his debts to any person unless such person shall either have obtained a certificate under the Act, or probate of the deceased's will, or administration to the estate. The only exceptions to this rule are cases where there is no reasonable doubt as to the person entitled to receive the money, but also where the debtor withholds the debts from fraudulent or vexatious motives. The mere non-payment of the debt when it has never been asked for cannot be said to be a debt vexatiously withheld within the meaning of the Section 2 of the Act, (*vide* I. L. Reports, VI, Calcutta, page 370, and, IX, Calcutta, Page 309).

It was held in VII, Madras, page 115, that if the debtor refused to pay neither from fraudulent nor vexatious motive but to avoid the risk of having to pay the debt twice over, the suit without the certificate of heirship must be dismissed.

Sections 4, 6, 7 and 8 of the Government Savings Bank Act V of 1873 refer to deposits of a deceased person not exceeding Rs. 1,000 and empower the Treasury Officers to make payment of any deposit not exceeding Rs. 1,000 with or without the certificate of heirship, at their discretion and to take security, if necessary. The provision made is in pursuance of the rulings above quoted, with the additional power given to them to take security, similar to provision in the Certificate of Heirship Act, empowering the Courts to take security if necessary before the grant of certificate of heirship.

Under the rulings above quoted amounts deposited could be paid at the discretion of Treasury Officers without a special enactment. But to avoid a conflict of rulings on the point and to secure a uniform mode of payment under the provisions of an enactment, the Government Savings Bank Act must have been passed and as an express provision is made for the payments of deposits not exceeding Rs. 1,000, the same provision cannot in law apply for payment of amount of deposits exceeding Rs. 1,000. I am therefore of opinion that a certificate of heirship is necessary before payment when the amount exceeds Rs. 1,000.

In the case under reference, as the major portion of the amount has been paid to Mr. Venkatramaiya on the production of a deed of release and as a fresh account was opened in his name, I am of opinion that the amount may be paid to him without any certificate or security as the deposit is in his name.

(3) Letter No. 438, dated 14th November 1899, from the Deputy Commissioner, Tumkur district.

In reply to your docket No. 7425—F. 868, dated the 18th April 1899, I have the honor to state that in the absence of an express provision in the Government Savings Bank Act V of 1873, or in the rules framed thereunder, prohibiting the payment to legal heirs of deposits of upwards of Rs. 1,000, belonging to deceased persons, except upon the production of a probate of will, or letter of administration, or certificate granted under Act XXVII of 1860, a sum of Rs. 1,000, was paid to Advocate Mr. D. Venkatramaiya, B. A., out of the balance of Rs. 1,731-5-6, which stood in the name of his deceased father Mr. D. Venkatramanaiya, as he was considered entitled to receive it. Mr. D. Venkatramaiya's claim to receive the said money was supported by a duly stamped deed of release executed by his brothers and nephews having a lien on the estate of the deceased depositor, renouncing their claims on the Bank deposit in question in his favor. (*Vide* copy enclosed for reference.)

2. The account for the balance remaining in the Bank, after payment of Rs. 1,000, above mentioned, was erroneously *transferred* in the name of Mr. D. Venkatramaiya, B. A. The proper course to adopt was to close the deceased depositor's account by payment of the whole of the balance at his credit to his legal heir and to open a fresh account in the name of the latter on his application. A copy of the Treasury Officer's letter No. 268 of the 28th April 1899, and of its enclosure is herewith forwarded for perusal

Financial, dated 29th November 1899.

3. A fresh account having been opened and a Pass Book having been issued to Mr. D. Venkatramaiya in respect of the balance of money which remained in the Bank to his deceased father's credit, the Treasury Officer cannot, I think, now refuse to permit him to operate on that account.

4. The terms of the release referred to in para 1 are clear, and I am satisfied that under it Mr. D. Venkatramaiya, B. A., is solely entitled to the money in question. He has expressed his willingness to execute an indemnity bond in respect thereof in any form that may be prescribed by Government.

5. In this connection, I beg that a clear rule may be laid down for future guidance in respect of the payment of deposits in the names of deceased persons amounting to upwards of Rs. 1,000, as Section 4 of Act V 1873, is applicable only to deposits not exceeding that sum.

No. 3986-9—R. F. 16-99, DATED BANGALORE, 29TH NOVEMBER 1899.

ORDER THEREON.—The Government observe that the discretion allowed to the Treasury Officers in Section 4 of the Savings Bank Act V of 1873, is expressly limited to deposits not exceeding Rs. 1,000. In the case of larger deposits, a certificate of heirship cannot be dispensed with. In the present case, however, it is too late now to rectify the mistake made by the Treasury. Nor can Mr. Venkatramaiya be prevented from operating upon the account transferred to his name. The deed of release produced by him seems sufficient and no further indemnity need be called for.

C. SREENIVASIENGAR,
Secy. to Govt. Gen. & Rev. Depts.

To—The Comptroller to the Government of Mysore.
The Deputy Commissioner, Tumkur District.
The Deputy Commissioners of other Districts.

Exd.—H.A.R.

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1899-1900

GOVERNMENT OF MYSORE

FINANCIAL

PROCEEDINGS

Dated 29th November 1899

No. 3986-9
R. F. 16-9

Observing that the discretion allowed to Treasury Officers in Section 4 of the Savings Bank Act V of 1873, is expressly limited to deposits not exceeding Rs. 1,000, and that in cases of larger deposits a certificate of heirship cannot be dispensed with and stating that in the case under reference the deed of release produced by Mr. Venkatramaiya is sufficient and no further indemnity need be called for.

SBP—7-12-99—300